

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	CASE NO. 8:05CR78
	)	
Plaintiff,	)	
	)	
vs.	)	TENTATIVE FINDINGS
	)	
RONALD GOODEN,	)	
	)	
Defendant.	)	

The Court has received the Presentence Investigation Report ("PSR"). Neither party has adopted or objected to the PSR.

The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The plea agreement reached pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) requires a sentence of 84 months, relying among other things on the applicability of criminal history category IV. However, the PSR places the Defendant in criminal history category V which, with a total offense level of 25, results in a sentencing guideline range of 100-125 months.<sup>1</sup> The Court will discuss the disparity with the parties at sentencing.

IT IS ORDERED:

1. The parties are notified that my tentative findings are that the PSR is correct;
2. If **any** party wishes to challenge these tentative findings, the party shall file, as soon as possible but in any event before sentencing, and serve upon opposing counsel

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<sup>1</sup>A total offense level of 25 and placement in criminal history category IV would result in a range of 84-105 months.

and the court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this order, my tentative findings may become final;

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 7<sup>th</sup> day of November, 2005.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge